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MEDICAL GROUP, LLP dba UNIVERSITY  
URGENT CARE

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

ALLSTATE INSURANCE COMPANY,  
ALLSTATE PROPERTY & CASUALTY  
INSURANCE COMPANY, ALLSTATE  
INDEMNITY COMPANY, and ALLSTATE  
FIRE & CASUALTY INSURANCE  
COMPANY,

Plaintiffs,

vs.

RUSSELL J. SHAH, M.D.; DIPTI R. SHAH,  
M.D.; RUSSELL J. SHAH, MD, LTD.; DIPTI  
R. SHAH, MD, LTD.; and RADAR MEDICAL  
GROUP, LLP dba UNIVERSITY URGENT  
CARE, Does 1-100, and ROES 101-200,

Defendants.

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AND RELATED CLAIMS.

Case No. 2:15-cv-01786-APG-CWH

**DEFENDANTS' MOTION FOR LEAVE  
TO FILE UNDER SEAL EXHIBITS 43-  
65 AND 70-86 SUPPORTING THEIR  
MOTION FOR SANCTIONS AGAINST  
PLAINTIFFS (FED. R. CIV. P. 11 AND  
THE COURT'S INHERENT POWER)**

Defendants Russell J. Shah, M.D. (“Russell”), Dipti R. Shah, M.D. (“Dipti”), Radar Medical Group, LLP (“Radar Medical Group”), Russell J. Shah, MD, Ltd. (“Russell PC”), and Dipti R. Shah, MD, Ltd. (“Dipti PC”) (collectively, the “Radar Parties”) move this Court for leave to file under seal Exhibits 43-65 and 70-86 supporting their Motion for Sanctions Against Plaintiffs (Fed R. Civ. P. 11 and the Court’s Inherent Power) [ECF No. 73] (the “Motion for Sanctions”). These exhibits contain or reference “protected health information” concerning non-parties to this matter, and therefore, compelling reasons exist to seal them.

This Motion is made and based on the papers and pleadings on file, the following Memorandum of Points and Authorities, and any argument heard by the Court.

DATED this 1<sup>st</sup> day of February, 2017.

BAILEY ♦ KENNEDY

By: /s/ Dennis L. Kennedy

DENNIS L. KENNEDY

JOSEPH A. LIEBMAN

JOSHUA P. GILMORE

*Attorneys for Defendants &  
Counterclaimants*

### **MEMORANDUM OF POINTS AND AUTHORITIES**

A party seeking to seal documents attached to a dispositive motion must identify “compelling reasons supported by specific factual findings” in order to overcome the presumptive right of public access to those documents. *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006). The Court will balance the competing interests of the public and the parties (or non-parties) in deciding whether to seal judicial documents. *See id.* at 1179.

On February 1, 2017, the Radar Parties filed their Motion for Sanctions. The Radar Parties attached twenty exhibits to their Motion for Sanctions that qualify (or likely qualify) for sealing: Exhibits 43-65 and 70-86. Exhibits 43-65 consist of written reports prepared by various health care providers describing medical treatment rendered to several patients purportedly at issue in this matter. Exhibits 70-86 consist of claims notes that discuss or reference several patients purportedly at issue in this matter who received medical treatment from one or more members of Radar Medical

1 Group.<sup>1</sup> The Insurance Companies have marked each these medical reports and each of their claim  
 2 notes as “CONFIDENTIAL” pursuant to the Stipulated Confidentiality Agreement and Protective  
 3 Order [ECF No. 39] (the “Protective Order”).

4 Because the patients referenced in Exhibits 43-65 and 70-86 are non-parties to this matter,  
 5 sealing these exhibits is warranted in order to protect the patients’ privacy interests under the Health  
 6 Insurance Portability and Accountability Act of 1996.<sup>2</sup> *See, e.g., Brodsky v. Baca*, No. 3:14-cv-  
 7 00641-RCJ-WGC, 2015 WL 6962867, at \*1 (D. Nev. Nov. 10, 2015) (recognizing that protecting  
 8 medical privacy qualifies as a “compelling reason” to seal judicial records).

9 For these reasons, the Court should grant this Motion to Seal.

10 DATED this 1<sup>st</sup> day of February, 2017.

11 BAILEY ♦ KENNEDY

12 By: /s/ Dennis L. Kennedy

13 DENNIS L. KENNEDY

14 JOSEPH A. LIEBMAN

15 JOSHUA P. GILMORE

16 IT IS SO ORDERED.

17 DATED: February 23, 2017

18   
 19 C.W. HOFFMAN, JR.

20 UNITED STATES MAGISTRATE JUDGE  
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27 <sup>1</sup> Excerpts were submitted in order to minimize the amount of private medical information filed with the Court.

28 <sup>2</sup> On September 20, 2016, the Court entered an Order [ECF No. 67] sealing excerpts of claims notes for two other patients purportedly at issue in this matter because they contained “sensitive medical information of non-parties.”

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**CERTIFICATE OF SERVICE**

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 1<sup>st</sup> day of February, 2017, service of the foregoing DEFENDANTS' MOTION FOR LEAVE TO FILE UNDER SEAL EXHIBITS 43-65 AND 70-86 SUPPORTING THEIR MOTION FOR SANCTIONS AGAINST PLAINTIFFS (FED. R. CIV. P. 11 AND THE COURT'S INHERENT POWER) was made by mandatory electronic service through the United States District Court's electronic filing system and/or by emailing a true and correct copy to the following:

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